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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,341	05/09/2005	Martin Popp	2005-133	4837
27569	7590	06/18/2009		
PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			EXAMINER RADKOWSKI, PETER	
			ART UNIT 2883	PAPER NUMBER
			NOTIFICATION DATE 06/18/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/534,341	Applicant(s) POPP ET AL.	
	Examiner PETER RADKOWSKI	Art Unit 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 17-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/30/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Office Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of 35 U.S.C. 102 which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11, 17-18 and 22-31

2. **Claims 1-7, 11, 17-18 and 22-31 are rejected** under 35 U.S.C. 103(a) as being anticipated by Tichenor (4,187,534; “Tichenor”).

Regarding claims 1-7, 11, 17-18, and 22-31, Tichenor teaches a one-piece support [3], and method of making a one piece support portion, the support portion having circular recess support portions [1]-[6] for mounting a plurality of wave-modifying elements [30] and [32] which cover openings in said recesses. Tichenor, figs. 2 and 3; col. 2, ll. 19-48.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 19-21

4. **Claims 1 and 19-21 are rejected** under 35 U.S.C. 103(a) as being obvious over Tichenor (4,187,534; “Tichenor”).

Regarding claim 1, Tichenor teaches a one-piece support [3], and method of making a one piece support portion, the support portion having circular recesses [1]-[6] for mounting a plurality of wave-modifying elements [30] and [32] which cover openings in said recesses. Tichenor, figs. 2 and 3; col. 2, ll. 19-48.

Regarding claims 19-21, Tichenor does not explicitly teach that the wave-modifying elements are mirrors, multiplexors or beam splitters. However, it would have been an obvious design choice of one of ordinary skill in the art at the time of the invention to replace Tichenor’s lenses with mirrors, multiplexors or beam splitters

Claims 1, 8-10, 22, 24-26 and 32

5. **Claims 1, 8-10, 22, 24-26 and 32 are rejected** under 35 U.S.C. 103(a) as being obvious over Tichenor (4,187,534; "Tichenor").

Regarding claims 1 and 22, Tichenor teaches a one-piece support [3], and method of making a one piece support portion, the support portion having circular recesses [1]-[6] for mounting a plurality of wave-modifying elements [30] and [32] which cover openings in said recesses. Tichenor, figs. 2 and 3; col. 2, ll. 19-48.

Regarding claims 8-10, 24-26 and 32, Tichenor does not explicitly teach that the supporting portion comprises a bonding agent or a ductile plastic material or that making the supporting portion comprises machining or turning. However, it would have been an obvious design choice of one of ordinary skill in the art at the time of the invention to choose a supporting portion comprising a bonding agent or ductile plastic or to choose to machine or turn the supporting portion during fabrication.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to Form 892 for additional references cited but not used in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Radkowski whose telephone number is (571) 270-1613. The examiner can normally be reached on Monday - Thursday, 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font, can be reached on (517) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2883

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, See <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

/Peter P. Radkowski/
Patent Examiner, Art Unit 2883

/Frank G Font/
Supervisory Patent Examiner, Art Unit 2883